

**DRAFT**

**ORDINANCE FOR CIVIL RIGHTS IN BAY COUNTY GOVERNMENTAL AFFAIRS**

An Ordinance extending additional civil rights pertaining to governmental affairs of the County of Bay and to prohibit discriminatory practices in the conduct of Bay County government's affairs.

**THE BAY COUNTY BOARD OF COMMISSIONERS DOES HEREBY ORDAIN THE  
ORDINANCE FOR CIVIL RIGHTS IN BAY COUNTY GOVERNMENTAL AFFAIRS.**

**ARTICLE I**

**111.101 Purpose, findings and policy**

The County of Bay deems that none of its employees, nor anyone using nor housed in County owned facilities, receiving services or contracted by this County shall be denied equal protection of U.S. and Michigan law; nor shall any person be discriminated against because of race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental limitation, familial status, sexual orientation, or gender identity/expression. It is the policy of the Board of Commissioners that this Ordinance shall be vigorously enforced in its affairs and practices.

**ARTICLE II**

**111.201 Definitions**

For the purpose of this Ordinance, the following terms shall have the following meanings:

- (a) *Contractor*. A person who by *written* contract furnishes services, materials or supplies to Bay County government. "Contractor" does not include persons who are merely creditors or debtors of the County, such as those holding the County's notes or bonds or persons whose notes, bonds or stock is held by the County.

- (b) *Discriminate*. To make a decision, offer to make a decision or refrain from making a decision based in whole or in part on the race, color, religion, national origin, sex, age, height, weight, marital status, handicap, familial status, sexual orientation or gender identity/expression.
- (c) *County*. Bay County, Michigan.
- (d) *Employer*. The County government or a person or contractor employing one or more persons and doing business with the County government.
- (e) *Familial status*. 1 or more individuals under the age of 18 residing with a parent or other person having custody or in the process of securing legal custody of the individual or individuals or residing with the designee of the parent or other person having or securing custody, with the written permission of the parent or other person. For purposes of this definition, "parent" includes a person who is pregnant.
- (f) *Gender identity/expression*. A person's actual or perceived gender, including a person's gender identity, self-image, appearance, expression, or behavior, whether or not that gender identity, self-image, expression, or behavior is different from that traditionally associated with the person's sex at birth as being either female or male.
- (g) *Housing Facility*. Any dwelling unit or facility used or intended to or designed to be used as the home or residence of one or more persons which is owned or solely maintained by the County. Housing Facility shall not include any County jail or detention center.
- (h) *Labor organization*. Includes an organization of any kind, an agency or employee representation committee, group, association, or plan that does business with the County, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employees concerning grievances, labor disputes, wages, rate of pay, hours, or other terms or conditions of employment.
- (i) *Marital status*. The state of being married, unmarried, divorced or widowed.
- (j) *Place of Public accommodation*. A County owned educational, governmental, health, entertainment, cultural, recreational, refreshment, transportation, park, or facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
- (k) *Religious organization or institution*. A religious association, educational institution or society, which is, in whole or substantial part, owned, supported, controlled or managed by a particular religion whose purpose or character is directed toward the propagation of that particular religion and that has the inculcation of religious values as part of its purpose.
- (l) *Sexual orientation*. Male or female homosexuality, heterosexuality or bisexuality, by orientation or practice, whether past or present. Sexual orientation does not include the physical or sexual attraction to a minor by an adult.

## ARTICLE III

### NON-DISCRIMINATORY HIRING PRACTICE

#### 111.301 Hiring Statement

The County will not discriminate in its employment practices, and shall adhere to the following hiring policy statement:

"Bay County shall not discriminate against or grant preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, national origin, gender identity or expression, or sexual orientation. Bay County shall not discriminate against any individual with respect to the services, or hire, tenure, terms, conditions or privileges of employment because of a handicap that is unrelated to the individual's ability to perform the duties of a particular position, or because of race, color, religion, national origin, age, sex, height, weight, gender identity or expression, sexual orientation or marital status."

#### 111.302 Non-Discrimination in Hiring.

The County shall not discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion or termination of employment of any person.

#### 111.303 Labor Organizations doing business with the County.

No labor organization may do business with the County if it discriminates in limiting membership, conditions of membership, or termination of membership of any person in any labor union or apprenticeship program. The County shall not enter into future collective bargaining agreements which contain provisions inconsistent with this Ordinance.

#### 111.304 Employment Agencies doing business with the County.

No employment agency may do business with the County if it discriminates in the procurement or recruitment of any person for possible employment or contracted services with the County.

#### 111.305 Constitutionality.

Nothing in this Section shall operate to violate Article I, Section 25 of the Michigan Constitution.

## ARTICLE IV

### NON-DISCRIMINATION BY COUNTY CONTRACTORS

#### 111.401 Non-Discrimination by Contractors doing business with the County.

*Except as otherwise provided by law or within this Ordinance, any written contract to which the County is a party shall contain a covenant by the contractor and his/her subcontractors that, in any occurrence related to this engagement, they will not to discriminate against an employee or applicant for employment in any respect because of actual or perceived race, color, religion, national origin, age, sex, height, weight, marital status, handicap, familial status, sexual orientation, gender identity or expression. Breach of this covenant constitutes -may be regarded as a material breach of the contract. A Contractor of the County shall agree to participate in and cooperate fully with any investigation necessitated by any signed, written complaint submitted in accordance with §111.801 Investigation Further action shall be conditioned upon the findings of the investigation and in accordance with provisions of §111.805- Penalty. -The contractor shall be liable for any costs or expenses incurred by the County in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered under the contract as a result of the material breach of contract. A contractor may be debarred for up to two years following an investigation and opportunity for hearing substantiating such discrimination and in accordance with the County's Purchasing Policy.*

#### 111.402 Labor Organizations doing business with the County.

This section is also applicable to labor organizations, employment agencies, apprenticeships, and job training programs that do business with the County.

## **ARTICLE V**

### **NON-DISCRIMINATION IN COUNTY OWNED HOUSING.**

#### **111.501. Discriminatory housing practices.**

The County government shall not discriminate in referring, leasing, selling, renting, showing, advertising, pricing, offering, inspecting, listing, or otherwise making available any real property, including discrimination in lending, providing information and receiving or communicating a bona fide offer on any real property.

#### **111.502. Other prohibited practices.**

Bay County shall not adopt, enforce or employ any policy or requirement, publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing employment or housing.

## **ARTICLE VI**

### **NON-DISCRIMINATION IN COUNTY OWNED PUBLIC ACCOMODATIONS**

#### **111.601 Discriminatory public accommodation practices.**

The County shall not discriminate in making available full and equal access to all goods, services, activities, privileges and accommodations of any County-owned place of public accommodation.

#### **111.602 Criminal Conduct**

Nothing in this ordinance permits or requires access to any place of public accommodation for the purpose or intent of engaging in criminal conduct, nor does it alter the duty of the County Sheriff, nor operation of the County's jail or juvenile detention facility.

#### **111.603 Restrooms, Changing Rooms, Locker Rooms et. al.**

Nothing in this ordinance shall require the construction or provision of unisex, single-user restrooms, changing rooms, locker rooms, or shower facilities nor effect policies regarding the use of restroom, changing rooms, locker rooms or shower facilities.

## ARTICLE VII

### 111.701 Exemptions

Notwithstanding anything contained in this Article, the following practices of the County or its contractors shall not be violations of this Ordinance.

- (a) For a religious organization or institution that receives money or material support from the County to (i) restrict access or use of any of its facilities it operates; (ii) to restrict employment opportunities for officers, religious instructors, staff, or clergy, for any of its facilities; or (iii) restrict membership or benefits of membership.
- (b) For the County or its contractors to limit occupancy in a County housing project or to provide County public accommodations or County employment privileges or assistance to persons of low income, over 55 years of age or persons with disabilities.
- (c) For the County or its contractors to discriminate based on actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental limitation, familial status, sexual orientation, or gender identity/expression when such discrimination is permitted or required by U.S. or Michigan law under principles of preemption *and* except as required for bona fide occupational qualifications, or as required for *governmental grants and* certain law enforcement and juvenile detention facilities.
- (d) For the County or its contractors to refuse to enter a contract with an un-emancipated minor.
- (e) For the County or its contractors to provide discounts on products or service to students, minors and senior citizens, or members of an organization.
- (f) For the County or its contractors to restrict use of lavatories and locker room facilities on the basis of sex.
- (g) For the County or its contractors to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.
- (h) For the County or its contractors to restrict participation in a County instructional program, athletic event or on an athletic team on the basis of age or sex.

## ARTICLE VIII

### INVESTIGATION; PROVIDING FALSE INFORMATION; PRODUCING DOCUMENTS AND PENALTY; COERCION

#### 111.801 Investigation.

Any person seeking employment or otherwise doing business with the County claiming a violation of this ordinance shall file a signed, written complaint with the County Executive or his or her designee setting forth the details, including the names, dates, witnesses and other factual matters relevant to the claim within 180 days of the alleged incident forming the basis of the complaint.

#### 111.802 Providing False Information.

No employee or person doing business with the County shall provide false information to any authorized employee or other person assigned to investigate a complaint regarding a violation of this ordinance.

#### 111.803 Production of Evidence of Violation

In the course of the investigation, the County Executive or designee may request a person to produce books, papers, records or other documents which may be relevant to a violation or alleged violation of this ordinance. If said person does not comply with such request (absent a valid legal obstacle) a County employee may be considered liable for violation of this ordinance at the discretion of the County Executive or his or her designee. Failure to provide evidence of a violation of this ordinance may be considered a voluntary dismissal of that complaint.

#### 111.804 Coercion

No County employee or those having business with the County shall coerce, threaten, or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this Ordinance, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.

#### 111.805 Penalty

(a) Any employee of the County found guilty of violating this Ordinance following investigation of a formal complaint conducted by the County Executive or his or her selected representative shall be subject to discipline up to and including termination.

(b) Any party which is doing business which signs a written contract with the County that requires compliance with this Ordinance and is subsequently found to be in violation of this

Ordinance, is subject to *suspension* ~~reselssion~~ of that contract until compliance with the Ordinance is *instituted, verified and maintained as required in the contract*.

(c) *Mediation may be undertaken by the parties to seek resolution of alleged or substantiated violations.*

(d) *Debarment for up to two years may be imposed upon a Contractor following substantiation of a Violation and in conformity with the Bay County Purchasing Policy.*

## ARTICLE IX

### RULES OF CONSTRUCTION; SEVERABILITY

#### 111.901 Words defined; headings.

When not inconsistent with the context, words used in the present tense include the future. Words in the singular include the plural and words in the plural include the singular. Masculine includes the feminine and neuter. Words or terms not defined herein shall be interpreted in accordance with their common meaning. Headings are inserted for convenience and shall not limit or increase the scope of any article or section of this Ordinance.

#### 111.902 Ordinance supplemental to state and federal law.

The provisions of this Ordinance are minimum standards supplemental to the laws of the United States and the State of Michigan.

#### 111.903 Severability.

If any part of this Ordinance shall be held unconstitutional or void, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

## ARTICLE X

#### 111.1000 Repeal. Savings Clause.

Bay County Ordinances or parts of Ordinances or *County policies* inconsistent with this Ordinance are hereby repealed.



## ARTICLE XI

### 111.1100 Adoption, publication and effective date of ordinance

This Ordinance shall not be adopted or amended unless a majority of the Commissioners elected and serving shall vote in the affirmative on its adoption. The Clerk of the Board of Commissioners shall engross this Ordinance including any duly ordained amendments. The Chairperson of the County Board of Commissioners shall sign the same, which shall then be certified by the Clerk. This Ordinance shall then take effect 51 days after adoption and following publication of notice of its adoption in a newspaper of general circulation in the County of Bay and following further compliance with MCL 46.11(J). The County Clerk shall certify such publication.

Civ Rts Ord mpf 1.27.14